

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1125

To be argued by
DAVID J. GOTTLIEB

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

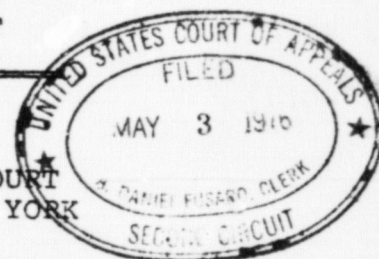
WILLIE LEE UNDERWOOD,

Defendant-Appellant.

Docket No. 76-1125

APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM A JUDGMENT
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.,
THE LEGAL AID SOCIETY,
Attorney for Appellant
WILLIE LEE UNDERWOOD
FEDERAL DEFENDER SERVICES UNIT
509 United States Court House
Foley Square
New York, New York 10007
(212) 732-2971

DAVID J. GOTTLIEB,
Of Counsel.

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

JUDGE OWEN

75 CRIM. 396

D. C. Form No. 100 Rev.

USDC 12/11/75

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U. S.:
vs.	Paul Vizcarrondo, Jr.
WILLIE LEE UNDERWOOD	791-1941
	For Defendant:
	Edward Bobick
	140 West 72nd St. N.Y.C. 10023
	873-7063

(01) STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISP.
J.S. 2 mailed	Clerk				
J.S. 3 mailed	Marshal				
Violation	Docket fee				
Title 18					
Sec. 1708.495.					
Possess. of stolen mail. (Cts. 1-32)					
Forg. of Govt. checks. (Cts 40-53)					
(Fifty-three counts)					

DATE	PROCEEDINGS
4-17-75.	Filed indictment.
4-28-75	Deft.(atty. present) Pleads not guilty. Motions returnable in 10 days. Bail fixed at \$5,000. P.R.B. secured by \$500. cash. Deft. given until 5/5/75, to post bail. Case assigned to Judge Owen for all purposes.
4-28-75	Pierce, J. Filed motion to dismiss indictment. Received in Court on 4/28/75.
5-5-75	Filed notice of appearance of Edward Bobick as attorney for deft.
5-5-75	Filed Deft's. appearance bond in the sum of \$5,000 P.R.B. secured by \$500 cash. Receipt #51103 - acknowledged by the Clerk.
5-16-75	Pre-trial conference held. Trial date set for Oct. 6th, 1975.....Owen, J.
5-23-75	Filed Govt's. affidavit in opposition to deft's. motion to dismiss.

DATE	PROCEEDINGS
5-23-75	Filed Deft's. reply affidavit in support of motion to dismiss the indictment.
5-23-75	Filed MEMO ENDORSED on deft's. motion to dismiss the indictment. Motion denied.Owen, J. (mailed notice)
6-5-75	Filed Govt's. notice of readiness for trial on or after 6-15-75.
10-20-75	Before Trial - Govt. moves to dismiss Counts 2-8, 11-12, 17-19, 21, 23, 24, 26, 29, 41, 42. Motion Granted with consent of deft. Case proceeds to trial - Jury empaneled & sworn.....Owen, J.
10-21-75	Trial continued.
10-22-75	Trial continued.
10-23-75	Trial continued & concluded. Verdict Guilty all open counts - 1, 9, 10, 13, 14, 15, 16, 20, 22, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52 & 53. Pre-sentence investigation ordered. Bail increased to \$5,000.00 cash or surety. Deft. remanded in lieu of bail. Sentence 12-5-75 at 2:15 P.M. Room 1105...Owen, J.
10-29-75	Filed Govt's. request to charge.
10-29-75	Filed Govt's. supplemental requests to charge.
10-29-75	Filed deft's. appearance bond in the sum of \$4,500.00 - Stuyvesant Insurance Company acknowledged by the Clerk.
11-10-75	Filed Remand - 10-28-75 - Deft. released from the custody of the U.S. Marshal upon posting \$4,500 surety bond (for total of \$5,000 - \$500 previously posted).
12-5-75	Filed JUDGMENT & COMMITMENT (atty present) The deft. is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of On Counts 1, 9, 10, 13-16, 20, 22, 25, 27, 28, 30-40 - THREE (3) YEARS, on each of the above named counts to run CONCURRENTLY with each other. On Counts 43-53 - SIX (6) YEARS. EXECUTION of sentence is SUSPENDED and deft. is placed on probation for a period of FIVE (5) YEARS, subject to the standing probation order of this Court. SPECIAL CONDITION OF PROBATION: Deft. is to make restitution to those defrauded on checks in the above counts in the amounts of those checks, the payment of which is to be supervised by the probation dept. Deft. is Remanded....Owen, J. Issued commitment 12-11-75.
12-11-75	Filed deft's. notice of appeal from the judgment of conviction entered on 10-23-75. Copies mailed to Willie Lee Underwood, M.C.C. 150 Park Row, N.Y.C. 10007 and U.S. Attorney's Office.

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PV, Jr.:bj
M-55

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

75 CRIM. 396

UNITED STATES OF AMERICA,

-v-

: INDICTMENT

WILLIE LEE UNDERWOOD,

: 75 Cr.

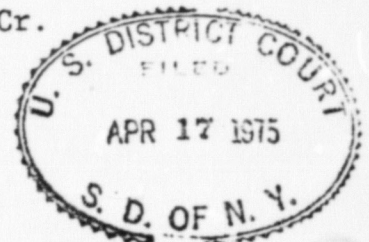
Defendant.

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COUNTS ONE THROUGH THIRTY-NINE

The Grand Jury charges:

On or about each date hereinafter set forth in counts one through thirty-nine, in the Southern District of New York, WILLIE LEE UNDERWOOD, the defendant, unlawfully, wilfully and knowingly did have in his possession the contents of a letter, namely, the check approximately described in each of counts one through thirty-nine, which had been stolen, taken, embezzled and abstracted from and out of the mail, post office postal station, letter box, mail receptacle, mail route and authorized depository for mail matter and from a letter and mail carrier, knowing the same to have been stolen, taken, embezzled and abstracted.



<u>Count</u>	<u>Date</u>	<u>Addressee</u>	<u>Description of Check</u>
1	December 16, 1973	Yvonne Harris 454 Grand Concourse #2C Bronx, New York 10431	City of New York Check No. 49905815, in the amount of \$220.00
2	December 16, 1972	Joseph Campbell 272 W. 119 St. New York, New York 10026	City of New York Check No. 38953806, in the amount of \$8.75
3	May 1, 1972	Mable Thomas 68 W. 116th St. 3W New York, New York	City of New York Check No. 31475104, in the amount of \$18.20

PV, Jr.:slc
M-55

<u>Count</u>	<u>Date</u>	<u>Addressee</u>	<u>Description of Check</u>
4	January 1, 1973	Thomas Smith 146 W. 117 St. New York, New York 10026	City of New York Check No. 39303058, in the amount of \$90.35.
5	September 13, 1974	Magali Rivera 87 W. 169 St. #6D Bronx, New York 10452	City of New York Check No. 34809352 in the amount of \$54.15.
6	January 16, 1973	Norma Spence 28-30 W. 127 St. New York, New York 10027	City of New York Check No. 38766758, in the amount of 93.10.
7	September 16, 1974	Helen Edwards 315 W. 113 St. New York, New York 10026	City of New York Check No. 54593936, in the amount of \$58.50.
8	July 26, 1974	Frances Hines 119 Tudor Place Bronx, New York 10452	City of New York Check No. 53827045, in the amount of \$104.08.
9	July 1, 1972	Vene Tsuetkoff 23 W. 87 St. New York, New York 10024	City of New York Check No. 33512378, in the amount of \$114.75.
10	May 16, 1974	Beatrice & Nycha Muni 165 E. 112 St. #8C New York, New York	City of New York Check No. 34136609, in the amount of \$48.50.
11	May	Juanita Ramos 1581 Park Ave. #3F New York, New York 10029	City of New York Check No. 52470116, in the amount of \$46.10.
12	December 17, 1973	Joyce Pitts 300 E. 143 St. #8E Bronx, New York 10454	City of New York Check No. 49905527, in the amount of \$116.50.
13	December 17, 1973	Benigna Madera 245 Willis Ave. #3N Bronx, New York	City of New York Check No. 49906201, in the amount of \$210.00.

<u>Count</u>	<u>Date</u>	<u>Addressee</u>	<u>Description of Check</u>
14	June 21, 1974	Patricia Mitchell 2400 Walton Ave. #4G Bronx, New York 10468	City of New York Check No. 53277348, in the amount of \$129.42.
15	October 1, 1973	Maria Rodriguez 170 E. 110 St. New York, New York 10029	City of New York Check No. 47689223, in the amount of \$94.00.
16	October 10, 1973	Alfredo Perez 169 E. 109 St. New York, New York 10029	City of New York Check No. 47688968, in the amount of \$26.75.
17	August 18, 1974	Maria Milazzo 104 W. 96 St. New York, New York 10025	City of New York Check No. 54123791, in the amount of \$100.00.
18	November 3, 1972	Yvonne Rivera 164 E. 107th St. #2C New York, New York 10029	City of New York Check No. 30189163, in the amount of \$80.55.
19	November 16, 1972	Yvonne Rivera 164 E. 107 St. #2C New York, New York 10029	City of New York Check No. 30264075, in the amount of \$80.55.
20	June 1, 1973	Beverly Abbott 1958 Madison Ave. New York, New York 10035	City of New York Check No. 43810193, in the amount of \$85.65.
21	January 1, 1973	Shirley Peay 2246 Webster Ave. Bronx, New York 10457	City of New York Check No. 39500323, in the amount of \$125.50.
22	December 29, 1972	Leslie Ford 24 W. 119 St., Rm. 7 New York, New York 10026	City of New York Check No. 39294700, in the amount of \$111.50.
23	January 1, 1973	John Vaughn 114 W. 119 St. New York, New York	City of New York Check No. 39296765, in the amount of \$94.65.
24	January 1, 1973	Ramona Holmes 40 W. 151 St. New York, New York 10031	City of New York Check No. 39219996, in the amount of \$95.25.
25	December 29, 1972	Elizabeth Evans 85 W. 118th St. New York, New York 10026	City of New York Check No. 39295750, in the amount of \$239.55.

<u>Count</u>	<u>Date</u>	<u>Addressee</u>	<u>Description of Check</u>
26	December 29, 1972	Barbara Brown 827 Union Ave. Bronx, New York 10459	City of New York Check No. 39535394, in the amount of \$128.00.
27	December 1, 1972	Cora Anderson 827 Union Ave. #2H Bronx, New York 10459	City of New York Check No. 38394280, in the amount of \$105.50.
28	December 1, 1972	Samuel Anderson 827 Union Ave. #2H Bronx, New York 10459	City of New York Check No. 38481276, in the amount of \$119.60.
29	December 28, 1972	Eleanor Stephens 27 W. 118 St. New York, New York 10026	City of New York Check No. 39297625, in the amount of \$121.25.
30	December 28, 1972	Frank Jordan 282 W. 119 St. New York, New York 10027	City of New York Check No. 39295604, in the amount of \$133.15.
31	June 19, 1974	Leola Green 1839 Lexington Ave. #5B New York, New York 10029	City of New York Check No. 53220992, in the amount of \$34.00.
32	June 19, 1974	Wanda Cruz 1829 Lexington Ave. #10B New York, New York 10029	City of New York Check No. 53221177, in the amount of \$35.35.
33	June 24, 1974	Elsie Encarnacion 1829 Lexington Ave. New York, New York 10029	City of New York Check No. 53297410, in the amount of \$227.00.
34	June 24, 1974	Dolores McLaurin 2070 3 Ave. #11C New York, New York 10029	City of New York Check No. 53296084, in the amount of \$100.00.
35	May 20, 1974	Felix Hernandez 1829 Lexington Ave. #13E New York, New York 10029	City of New York Check No. 52722634, in the amount of \$138.00.
36	June 7, 1974	E. M. Johnson 123 E. 112 St. Apt. 10F N. Y., N. Y. 10029	State of New York Check No. 59355900, in the amount of \$52.00.
37	June 18, 1974	P. N. Powell 123 E. 112 St. Apt. 2E N. Y., N. Y. 10029	State of New York Check No. 12625327, in the amount of \$73.80.

<u>Count</u>	<u>Date</u>	<u>Addressee</u>	<u>Description of Check</u>
38	July 1, 1974	E. M. Johnson 123 E. 112 St. Apt. 10F N. Y., N. Y. 10029	State of New York Check No. 99104518, in the amount of \$52.00.
39	April 4, 1974	Gloria Tucker 456 Grand Concourse Bronx, N. Y. 10451	State of New York Check No. 39641192, in the amount of \$126.38.

(Title 18, United States Code, Section 1708.)

COUNTS FORTY THROUGH FIFTY-THREE

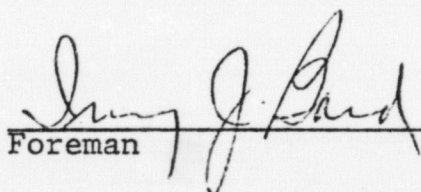
The Grand Jury further charges:

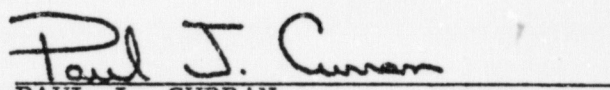
On or about each date hereinafter set forth in counts forty through fifty-three, in the Southern District of New York, WILLIE LEE UNDERWOOD, the defendant, unlawfully, wilfully and knowingly and with intent to defraud the United States, did utter and publish as true, and did cause to be uttered and published as true, a false, forged and counterfeited writing, namely, the endorsement of the name of the payee on the back of the United States Treasurer's check approximately described in each of counts forty through fifty-three, knowing that such writing was false, forged and counterfeited.

<u>Count</u>	<u>Date</u>	<u>Payee</u>	<u>Description of Check</u>
40	August 1, 1974	Agueda Segarra	U.S. Treasury Check No. 63,243,711, Symbol No. 4001, in the amount of \$154.18.
41	August 3, 1974	Elisa Martinez for Chlrn of A Martinez	U.S. Treasury Check No. 93,303,318, Symbol No. 3047, in the amount of \$378.40.
42	August 1, 1974	Luz Narvalz	U.S. Treasury Check No. 63,284,835, Symbol No. 4001, in the amount of \$154.18.
43	July 1, 1974	Angel Rosa	U.S. Treasury Check No. 62,584,707, Symbol No. 4001, in the amount of \$206.85.
44	June 3, 1974	William G. Gibbs for Sharon Gibbs	U.S. Treasury Check No. 68,133,015, Symbol No. 3046, in the amount of \$45.30.

<u>Count</u>	<u>Date</u>	<u>Payee</u>	<u>Description of Check</u>
45	October 3, 1972	Catherine Jones for Thomas H. Jones	U.S. Treasury Check No. 50,993,954, Symbol No. 3045, in the amount of \$378.60.
46	March 15, 1973	Myron & Yvonne Johnson	U.S. Treasury Check No. 23,021,701, Symbol No. 3045, in the amount of \$346.00.
47	April 3, 1973	Lillie Caldwell	U.S. Treasury Check No. 39,209,500, Symbol No. 3042, in the amount of \$203.60.
48	November 1, 1972	Kathryn G. Hall	U.S. Treasury Check No. 9,359,285, Symbol No. 3003, in the amount of \$224.71.
49	April 6, 1973	John P. C. Sagrande	U.S. Treasury Check No. 73,853,528, Symbol No. 3045, in the amount of \$467.00.
50	December 1, 1972	Samuel L. Anderson	U.S. Treasury Check No. 20,427,998, Symbol No. 2203, in the amount of \$132.00.
51	March 22, 1973	Eustace D & Maguerite Whittaker	U.S. Treasury Check No. 24,327,742, Symbol No. 3045, in the amount of \$186.39.
52	November 1, 1972	Simon J. Robinson	U.S. Treasury Check No. 63,893,331, Symbol No. 2203, in the amount of \$130.00.
53	June 1, 1974	Juana Torres	U.S. Treasury Check No. 61,724,314, Symbol No. 4001, in the amount of \$228.20.

(Title 18, United States Code, Section 495.)


Foreman


PAUL J. CURRAN
United States Attorney

United States District Court
SOUTHERN DISTRICT OF NEW YORK
THE UNITED STATES OF AMERICA

vs.

WILLIE LEE UNDERWOOD

Defendant.

INDICTMENT

75 Cr.

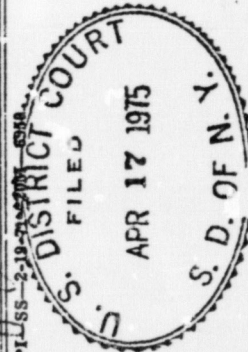
(18 U.S.C. §§ 1708 and 495.)

PAUL J. CURRAN

United States Attorney.

TRUE BILL

[Signature]
Foreman.



JUDGE OWEN

4-28-75 Left precinct (atty Edward Sobole
Precinct) Left. Please W.H. Case
assigned to Judge Owen. 10 days for
Matins. Bail fixed at \$5,000 P.K.B.
with Gov. Cash ~~to~~ (attorney
~~to~~) Dept given to 5/5/75
to post bail.
Pence J.P.

BEST COPY AVAILABLE

MAY 16 1975 - P.F.C. HELP. TRIAL DATE SET FOR OCT 6TH 1975.
OWEN, J.

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OCT 20 1975 - BEFORE TRIAL - GUT. MOVES TO DISM. CTS. 2-8; 11-12; 17-21, 23, 24, 26, 29, 41, 42. MOTION GRANTED W/CONSUNT OF DEFENDANT.
CASE PROCEEDS TO TRIAL - JURY ORDAINED + SWORN.

OWEN, J.

OCT 21 1975 - TRIAL CONT'D.

OCT 22 1975 - TRIAL CONT'D.

OCT 23 1975 - TRIAL CONT'D. + CONCLUDED. VERDICT GUILTY ALL OPEN COUNTS 1, 9, 10, 13, 14, 15, 16, 20, 22, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, + 53. P.S.I. ORDERED. BAIL INCREASED TO \$1000 CASH OR SURETY. DEFT. REMAINS IN LIEU OF BAIL. SENTENCED DEC. 5TH 1975.
Rm. 1105.

OWEN, J.

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DEC 5 1975 - DEFT. APPEARS (W/PATY) FOR SENTENCING. 3 YRS. PRISON TERM ON COUNTS 1, 9, 10, 13-16, 20, 22, 25, 27, 28, 30-40. TO RUN CONCURRENT ON COUNTS 43-53 - 5 YRS. E.S.S. PROB. 5 YRS. SI COND - TO MAKE RESTITUTION TO NAMED PERSONS ON CHECKS IN QUESTION FOR AMOUNT OF \$19. CHECKS TO BE SUPERVISED BY PROB. DEPT. DEFT. IS REMANDING.

OWEN, J.

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2 THE COURT: Good morning, ladies and
3 gentlemen.

4 Now, Mr. Kelly, ladies and gentlemen of the
5 jury, we are at the point in this trial where you are
6 about to undertake your final function as jurors, and it's
7 here, as I said to you at the outset of this case, that
8 you will be performing what I regard as one of the most
9 valuable obligations and duties of citizenship in this
10 country, which is to act as ministers of justice and to
11 determine here, in accordance with the instructions that
12 I shall give you and in accordance with the evidence that
13 you have heard, what are the facts in this case, what
14 happened. You are to do this and discharge your duties
15 with complete fairness, complete impartiality and as I
16 said when you were selected, you are to do this without
17 any bias or prejudice for or against the government or for
18 or against Mr. Underwood, the defendant, as parties to this
19 case.

20 This is an important case to both sides as
21 well as to the public at large. The fact that the
22 government is a party here entitles it to no greater
23 consideration than that given to any other party in any
24 other lawsuit.

25 By the same token, it's entitled to no less

consideration. All parties, whether it's the government, an individual, a corporation or whatever, all stand as equals before the bar of justice.

Now, in your role as passing upon the fact issues here, you are the sole and exclusive judges of those facts. This is not my province. It's your province. You determine the weight of the evidence, you appraise the credibility or believeability of the witnesses you have heard, you draw such reasonable inferences from the evidence as you think are warranted, you resolve such conflicts as you may find exist in the evidence, and in doing this I will later give you some guidance as to how you can be assisted in determining these issues and in determining any questions of credibility or believeability that you may find, if you do.

My final function as the Judge in this case is to instruct you on the law, and as I said to you and say to you now, it's your duty to accept these instructions of mine and apply them to the facts as you may find them. With respect to any fact matter it's your recollection and yours alone that governs as to what the testimony was. As I told you, I think somewhere early in this case anything that any attorney has said with respect to any testimony, whether during the trial, in a question, in the

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argument, in summation or anywhere else, is not to be substituted for your own recollection of what the evidence was. So, too, anything I may have said or may refer to in the course of this charge with regard to any matter of evidence or testimony, is not to be taken in place of your own recollection of what that testimony was.

If you wish to consider any exhibit in the case, you have only to ask for it. It will be made available for your consideration.

Now, before we get to the precise charge here, let me note a few preliminary things. There are certain essential principles of law which apply in every criminal case. I think I made reference to one or two of them when you were selected as jurors, and I will repeat them now.

The indictment, these pieces of paper (indicating), merely constitute a charge. This indictment is not evidence of anything, it's not proof of anything. It's not proof of the defendant's guilt and no weight whatsoever is to be given to the fact that an indictment has been returned here. The defendant has pleaded not guilty to the charge that is typed upon these pieces of paper and thus the government at all times throughout the course of this trial has the burden of proving the charges against

1 DSpa

2 the defendant beyond a reasonable doubt. The defendant
3 does not have to prove his innocence, he does not have to
4 prove anything.

5 On the contrary, he is presumed to be
6 innocent of the charges which are contained in this
7 indictment. This presumption of innocence was in his favor
8 at the start of the trial, it continues in his favor
9 throughout the entire trial, it's in his favor as
10 I am instructing you at this very moment, and it remains
11 in his favor during the course of your deliberations in
12 the jury room. The presumption of innocence being
13 removed only if and only when you are satisfied the
14 government has sustained its burden of proving the guilt
15 of the defendant beyond a reasonable doubt. At that point
16 the presumption of innocence would fall away.

17 Now, the question that comes up is, what
18 is a reasonable doubt? The words, as I'm sure you can see,
19 practically define themselves. It's a doubt founded upon
20 reason and arises out of the evidence in the case or the
21 lack of evidence, as the case may be. It's a doubt
22 which a reasonable person has after weighing all the
23 evidence. Reasonable doubt is a doubt
24 which appeals to your reason, to your judgment, to your
25 common sense and to your experience. Reasonable doubt is

not caprice, whim, speculation, guesswork, conjecture or suspicion. Reasonable doubt is not an excuse to avoid the performance of an unpleasant duty. It's not sympathy for a defendant.

If, after a fair and impartial consideration of all the evidence, you can candidly and honestly say that you are not satisfied of the guilt of the defendant, that you do not have an abiding conviction of his guilt amounting to a moral certainty, that ~~in sum~~ you have such a doubt as would cause you as a prudent person to hesitate before acting in matters of importance to yourself, then you have a reasonable doubt. In such circumstance it's your duty to acquit.

If, on the other hand, after such impartial and fair consideration of all the evidence you can candidly and honestly say that you do have an abiding conviction of the defendant's guilt, such a conviction as you would be willing to act upon in important and weighty matters in the personal affairs of your own life, then you have no reasonable doubt and under such circumstances it's your duty to convict.

One final word on this subject. Reasonable doubt does not mean a positive certainty or beyond all possible doubt. If that were the rule few persons, however

1 DSpa

2 guilty, would be convicted. It's practically impossible
3 for a person to be absolutely and completely convinced of
4 any controverted fact which by its nature cannot be proved
5 with mathematical certainty. As a consequence the law in
6 a criminal case is that it's sufficient that the guilt
7 of the defendant is established beyond a reasonable
8 doubt, not beyond all-possible doubt.

9 So much for the principles that apply
10 generally in criminal cases. Now, let's turn to the
11 indictment. Mr. Underwood is charged with the violation
12 of two federal statutes. First, section 1708 of
13 title 18 of the United States Code which provides in
14 appropriate part as follows:

15 "Whoever buys, receives or conceals or
16 unlawfully has in his possession any letter, postal card,
17 package, bag or mail or any article or thing
18 contained therein, which has been so stolen, taken,
19 embezzled or abstracted, knowing the same to have been
20 stolen, taken, embezzled or abstracted," and this
21 has to do with having been stolen from the mails. He is
22 also charged with a violation of section 495 of title 18
23 of United States Code which provides in pertinent part:
24 "Whoever utters or publishes as true any
25 false, forged, altered or counterfeit writing with intent to

1 DSpa

2 defraud the United States, knowing the same to be false.
3 altered, forged or counterfeited," and then it goes
4 on to say "commits a crime."

5 Now, these, in essence, are the two charges
6 here and they are that Mr. Underwood knowingly possessed
7 stolen mail, knowing it to have been stolen; and that he
8 attempted to pass forged United States checks
9 knowing them to be forged. The defendant is not charged
10 with having stolen any letters from the mail.

11 Specifically, Mr. Underwood is charged
12 in counts 1 through 22 with the knowing possession of a
13 check in each count. And in counts 23 through 34 with
14 attempting to pass forged government checks. I am
15 going to refer to the first 22 counts as the possession
16 counts and the other 12 counts as the uttering counts.
17 Uttering means the passing of forged government checks.

18 The specifics of each count are contained
19 in the indictment, which you may and should take with you
20 to the jury room. Although all of the counts involve one
21 of the two offenses, each count is a separate crime.

22 In other words, each of these counts is
23 a separate crime and you must separately determine whether
24 Mr. Underwood is guilty or not guilty with regard to each
25 of those counts.

Now, I will read to you count 1 of the indictment so that you will have the principles enunciated in it clearly in mind as I go on.

Count 1 reads as follows:

"On or about each date hereafter set forth in counts 1 through 22, in the Southern District of New York, Willie Underwood, the defendant, unlawfully, willfully and knowingly did have in his possession the contents of a letter, namely, the checks approximately described in each of counts 1 through 22 which had been stolen, taken, embezzled and abstracted from and out of the mail, post office, postal station, letterboxes, mail receptacle, mail route, an authorized depository for mail matter and from a letter or mail carrier, knowing the same to have been stolen, taken, embezzled and abstracted."

Then there is listed count 1, the approximate date of the alleged theft, the addressee of the check and a description of the check. This appears separately with regard to each check. I am not going to read those to you except to say that count 1 gives a date of December 16, 1973, the addressee being Yvonne Harris, 454 Grand Concourse in the Bronx. The check is described as a City of New York check no. 29905815 in the amount of \$220, and so on.

Now, in order to convict Mr. Underwood on a possession count -- that's one of the ones 1 through 22-- you must find beyond a reasonable doubt each of the following elements as to the particular count. First, that the letter and the contents, here the check, were deposited in the mails.

Second, that the check was stolen from the mails.

Third, that the defendant in question later knowingly had the check in his possession in the Southern District of New York.

Four, that at the time of the defendant's possession he knew the check was stolen.

It's not necessary for you to find that the defendant knew that the check was stolen from the mails. It's only necessary that you find that the defendant knew the check was stolen. I have pointed out that you must find, among other elements, that the crime was committed in the Southern District of New York, and I charge you as a matter of law that the Boroughs of Manhattan and the Bronx are within the Southern District of New York.

Now, as to the first element in more detail, the first fact you must find beyond a reasonable doubt is that a letter containing each check was deposited in and

1 DSpa

2 sent through the mails. In this case there has been
3 a stipulation that the checks charged in the indictment
4 were in fact mailed, but you must nevertheless find beyond
5 a reasonable doubt that fact.

6 The second fact you must beyond a reasonable
7 doubt find with respect to the possession counts or
8 any of them is that the check was stolen from the mail.
9 If you accept the testimony of Mr. Rodriguez, there
10 is direct proof of the theft from the mail of certain of
11 these checks. Apart from Rodriguez, if you were to find,
12 for example, that any one of these checks had been
13 properly mailed to a particular recipient and had not
14 been received by that recipient, and further that thereafter
15 the check was in improper hands, absent any other explanation,
16 and taking into account all the circumstances, that will
17 be sufficient for you to base a finding that the particular
18 mail matter and the check contained within it had been
19 stolen from the mail.

20 The element that the check had been stolen
21 from the mails would be satisfied if you found that it was
22 stolen no matter by whom. The prosecution is not required
23 to show who committed the theft or how it was committed
24 or that the defendant played any role in the theft.

25 With regard to the third element, possession,

1 DSpa

2 you must find beyond a reasonable doubt, in order to convict
3 the defendant, that he received or possessed the contents
4 of the stolen mail. You may make such a finding if you con-
5 clude that the defendant possessed stolen mail, to wit, the
6 letter or its contents either physically or constructively.

7 As to possession, you must be satisfied
8 beyond a reasonable doubt that the defendant knew what he
9 was doing and that he did it deliberately and voluntarily as
10 opposed to mistakenly or accidentally or innocently or as the
11 result of some coercion.

12 Of course, it's not necessary for you to
13 find the defendant knew he was violating any particular
14 law. Rather it's sufficient if you are convinced beyond
15 a reasonable doubt that he was aware of the general unlawful
16 nature of his acts.

17 The government in addition to establishing
18 that the defendant possessed the check which had been
19 stolen mail matter, if you do so find, must also establish
20 that the defendant knew it was stolen.

21 However, the government is not required to
22 establish the defendant knew it had been stolen from the
23 mails. It's sufficient if the government has established
24 that the defendant knew it had been stolen. The law does
25 not punish for a crime unless it's done willfully and with

1 DSpa

2 intent to violate the law. This involves conscious
3 wrongdoing or, as has sometimes been expressed, a
4 criminal intent. An act is done knowingly if it's done
5 voluntarily and purposefully and not because of mistake,
6 accident, inadvertence or some other innocent reason.

7 Knowledge and intent involve what is in
8 one's mind and what is his purpose at the time of the
9 claimed illegal transaction.

10 Medical science has not yet devised an
11 instrument by which we can go back and determine as of the
12 time of an event what a person knew and the purpose with
13 which he acted. So a person's knowledge and his intent
14 are issues of fact which are to be decided by you from
15 the circumstances. Guilty knowledge, that is in this
16 case that one knew that the mail in his possession was stolen,
17 may be proven by direct evidence. Here the government
18 claims such direct evidence in the person of witness
19 Rodriguez and asks you to credit his testimony.

20 Under the law if there is no direct evidence
21 guilty knowledge may be established or inferred from
22 all the facts and circumstances of a given situation, and
23 that is what is called circumstantial evidence.

24 In other words, from a basic fact which
25 has been established to your satisfaction, you can draw such

1 DSpa

2 inferences as I may find are reasonably warranted in
3 terms of your common experience. You can draw a second fact
4 c onclusion that logically and reasonably flows from the
5 one that is established.

6 Let me give you a homely example that
7 judges have used, memory of man not runneth to the
8 contrary.

9 If when you came in this morning the sun
10 had been shining and the blinds were drawn so you could
11 not see out and you sat here for half an hour and a man
12 came in shaking drops of water off a raincoat, followed
13 by another man who came in shaking water off an umbrella,
14 you could conclude from that that since you had come
15 into the building the sun had stopped shining and it had
16 begun to rain, even though you were not aware of the rain,
17 you could not see it yourself. Still you could draw an
18 inference from the fact you did see, to the logical
19 conclusion.

20 Now, a little bit about the contentions
21 of the parties.

22 In this case the government contends,
23 among other things, that the defendant's possession of
24 stolen checks made payable to people with whom Underwood
25 had never dealt is circumstantial evidence of guilty knowledge.

1 DSpa
2 If you find that when questioned by
3 government agents Mr. Underwood gave false statements in
4 an attempt to exonerate himself, you may consider such a
5 false statement as circumstantial evidence from which
6 consciousness of guilt or criminal intent may be inferred.
7 For, it's reasonable to infer that an innocent person
8 does not ordinarily find it necessary to invent or
9 fabricate an explanation or a statement tending to
10 establish his innocence. Whether or not the evidence of
11 the defendant's statements points to a consciousness
12 of guilt and the significance, if any, to be attached to
13 such evidence, are, of course, matters for your deter-
14 mination and your determination alone.

15 Turning briefly to another matter, possession
16 of recently stolen property, if you so find, if not
17 satisfactorily explained, is ordinarily a circumstance
18 from which you may reasonably draw the inference and find,
19 in light of surrounding circumstances shown by the evidence
20 in a case, that the person in possession knew the property
21 had been stolen.

22 However, you are never required to make this
23 inference. It's your exclusive province to determine whether
24
25

the facts and circumstances shown by the evidence in this case warrant any inference which the law permits you to draw from the possession of recently stolen property.

The term recently is a relative term and has no fixed meaning. Whether property may be considered as recently stolen depends upon the nature of the property and all of the facts and circumstances shown by the evidence in the case. The longer the period of time since the theft, the more doubtful becomes the inference which may be reasonably drawn from such unexplained possession.

If you should find beyond a reasonable doubt from the evidence in the case that the mail described in the indictment was stolen and that while recently stolen the contents of said mail, that is the various checks, were in the possession of the defendant, you would ordinarily be justified in drawing from those facts the inference that the contents were possessed by the accused with knowledge that it was stolen property. Unless such possession is explained by facts and circumstances in this case which are in some way consistent with the defendant's innocence.

In considering whether possession of recently stolen property has been satisfactorily explained,

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2 I charge you that the possession may, if you credit it,
3 be explained satisfactorily by other circumstances, other
4 evidence in the case, including the defendant's statements
5 given to the agents which are in evidence before you.

6 I want to add that nothing I have said
7 here in any way transfers from the government the burden
8 of proving every element of the case beyond a reasonable
9 doubt.

10 I also charge you that if you find that the
11 defendant acted, One: With reckless disregard of whether
12 the checks were stolen--and I want to underscore this
13 word--and Two: With a conscious purpose to avoid learning
14 the truth, the requirement of guilty knowledge would be
15 satisfied unless you were to find that the defendant
16 actually believed that they were not stolen.

17 Now, turning to the uttering counts, the
18 forgery counts, which are counts 23 to 34, and I will
19 read to you a representative one of those counts.

20 "On or about each date hereafter set forth
21 in counts 23 through 34, in the Southern District of
22 New York, Willie Lee Underwood, the defendant, unlawfully,
23 willfully and knowingly and with intent to defraud the
24 United States, did utter and publish as true, did cause
25 to be uttered and published as true, a false, forged and

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2 counterfeited writing, namely, the endorsement of the name
3 of the payee on the back of the United States treasury
4 check approximately described in each of counts 23 through
5 34, knowing that such writing was false, forged and counter-
6 feit."

7
8 Now, in regard to the uttering counts, as
9 I call them, as the law described them, you must find the
10 following elements beyond a reasonable doubt in order to
11 convict, first, that on or about the date charged in the
12 indictment, and as I pointed out to you in connection with
13 the possession there is a preamble paragraph followed by a
14 brief descriptive paragraph for each count, you must find
15 on or about the date charged as to each count of the indict-
16 ment that the defendant in question uttered or published a
17 certain writing which is a United States treasury check.

18 Second, that the check contained a false,
19 forged, altered or counterfeited writing, namely, the
20 signature of the payee.

21 Third, that the defendant in question know
22 that the check contained the false, forged, altered or
23 counterfeited signature.

24 Four, that the defendant acted willfully
25 and knowingly and with intent to defraud the United States.

I will explain these in some detail in a

1 DSpa

2 moment. With respect to the first element, you must be
3 satisfied beyond a reasonable doubt that the defendant
4 uttered or published the check in question. The term
5 "uttered" or "published as true" simply means to pass or
6 give it to another person with the intent that the
7 recipient believed that the writing is true.

8 In this case, for example, to a supplier of
9 merchandise with either the express or implied representation
10 that the endorsement of the payee on the back of the
11 check was genuine.

12 The writings involved in this case are the
13 signatures of the payees on the checks which the government
14 alleges are forged. In this connection you have heard
15 testimony that the payees' signatures were not theirs and
16 they did not authorize anyone to sign their checks.

17 These are the first and second elements
18 of the charge. The third element which you must find
19 beyond a reasonable doubt before you may convict the
20 defendant of passing of forged treasury checks, is that
21 he knew the check contained a forged endorsement of the
22 payee.

23 The fourth essential element of uttering a
24 forged writing is that the defendant must have acted
25 willfully and knowingly and with an intent to defraud the

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2 United States. I have already told you what willfully and
3 knowingly mean with respect to the possession of stolen
4 mail and that definition you should apply here as well.

5 To convict you must find that defendant
6 intended that at some time in the future one or more members
7 of the public would be given the forged United States
8 treasury check as payment for something, or that such a
9 person would be told that the check was true and genuine,
10 or would deal with the check in question in some way under
11 the mistaken belief that it was true and genuine without
12 knowing that it was forged. It's not necessary that the
13 defendant have had any particular persons in mind as the
14 one who would be defrauded or to whom the check in question
15 would be passed as true and genuine. The government does
16 not have to prove that the defendant actually caused anyone
17 to suffer a pecuniary loss. It's only necessary, in other
18 words, that the government prove that the defendant intended
19 that someone at some time would be defrauded by the United
20 States treasury check set forth in the given count that
21 you are considering.

22 Furthermore, intent to defraud the United
23 States does not mean that the United States must have
24 suffered any pecuniary loss. It does mean, on the other
25 hand, that the administration of the governmental function

1 DSpa

2 must have been impaired. Here, the function is that of
3 the United States Treasury Department issuing checks as
4 payments under certain laws, including social security,
5 income tax, veteran's administration, and so on.

6 Now, the government has offered evidence
7 here as to checks other than those charged in the indict-
8 ment from which it argues you could conclude that they
9 were stolen from the mails and were negotiated by the
10 defendant, such as the check of Mr. and Mrs. Mann for
11 \$979, given to a supplier for a 500-odd dollar balance due
12 on a meat bill. These checks were admitted in evidence
13 and you may consider defendant's connection with them and
14 use of them, (if you find he had such connection and made
15 such use,) only for the purpose of determining his state
16 of mind and his knowledge as to the checks that are the
17 subject of the indictment itself.

18 Thus, you may consider in determining whether
19 the defendant acted with guilty knowledge or intent as
20 to the checks charged in the indictment the fact, if you
21 find it as true, that the defendant knowingly engaged in
22 other transactions similar to those charged in the indict-
23 ment.

24 Now, I am not going to review the testimony
25

1 for you in any sense because this has been a relatively
2 short case and I am sure the testimony is fresh in your
3 minds. And counsel here have reviewed it very well for
4 you here. But I do think a statement of the parties'
5 contentions is in order. The government contends that
6 it has proven beyond a reasonable doubt, as to each of the
7 counts in the indictment, that the defendant purchased or
8 knowingly purchased or obtained city, state, federal
9 government checks stolen from the mail, knowing them to
10 have been stolen and knowing that the endorsements on them
11 were forgeries and then used them to pay his bills.
12

13 Defendant contends that he committed no
14 crime. He contends that throughout the period relevant
15 to the indictment he was a legitimate businessman conducting
16 a meat market at 120 Lenox Avenue and contends that in
17 accordance with the common practice of the area he
18 accepted government checks, welfare and United States
19 Treasury checks from legitimate customers, from people whom
20 he believed were the payees. Defendant contends that to
21 his knowledge the persons who presented the checks were
22 the payees and that he only accepted checks from persons
23 he knew to be the payees.
24

25 The defendant further maintains that his
acceptance of the aforementioned checks were necessary

2 in order for him to conduct his business in the Harlem
3 area; that it was not unusual for Harlem businessmen to
4 so do nor was it unusual for the Harlem businessmen to
5 pay their bills with such checks.

6 Now, I have not referred to much evidence
7 upon which the parties have relied but I do want to say
8 firmly that all the evidence in this case, whether I refer
9 to it or not, is important and should be considered by you.
10 In referring to testimony I have sought to state the
11 substance of it with accuracy. However, I say again if
12 I have made or make any reference to any testimony which
13 does not agree with your own recollection of it, you
14 are to disregard my statements. It's your recollection
15 and yours alone that governs.

16 I also want to state that just because
17 evidence is uncontradicted in the record you need not
18 accept it if you do not find it to be believable.
19 You alone, as I have said before, are called upon to decide
20 the facts here.

21 Now, how do you do this? Your determination, ladies
22 and gentlemen, of the credibility of witnesses, which is
23 obviously a threshold question to determining what the
24 facts are, depends very largely upon the impression that
25 a witness or witnesses made upon you. Was that witness

1 telling you the truth or giving you an accurate version
2 of what happened? As I said, when you walk in the
3 door of this courtroom and you sit in the jury box you
4 keep your common sense and good judgment with you. You
5 decide whether a witness has told a straightforward and
6 truthful story, whether the witness attempted to conceal
7 anything, whether there was a motive to testify falsely,
8 whether there was a reason that a witness might color the
9 testimony that was given.

11 The ultimate question for you to decide
12 in passing upon credibility is, did the witness tell the
13 truth here before you as to the essential matters? It's
14 for you to decide whether a witness at this trial was
15 truthful in whole or in part in the light of his or her
16 demeanor and all the evidence in the case.

17 If you conclude that any witness in this
18 case has testified before you falsely as to any material
19 matter, you may disregard the testimony of that witness
20 entirely or you may credit such part of it as commends
21 itself to your belief and disregard the balance.

22 Now, one of the government witnesses, a
23 Mr. Rodriguez, testified that he was a participant in
24 the crimes charged in this indictment. The government
25 occasionally must use the testimony of alleged accomplices

1 because otherwise it would be difficult or impossible
2 to detect or prosecute wrongdoers. Such testimony shall
3 be considered by you and is not to be rejected by you
4 unless you think it has no weight. Like any other fact,
5 it's to be taken up and dealt with by the jury, that
6 is by you who are the triers of fact.
7

8 However, I must advise you that such
9 testimony should be received with caution and weighed with
10 care.

11 Now, I am getting close to the end. The
12 government to prevail, as I have said before, must prove
13 the essential elements of this charge by the required
14 degree of proof as I charged you. If the government has
15 succeeded your verdict should be guilty as to each such
16 charge. If it has failed your verdict should be not guilty
17 as to each such charge. Your verdict, ladies and gentlemen,
18 must be unanimous. I wish to repeat, your function is
19 to weigh the evidence in this case and determine the guilt
20 or innocence of Mr. Underwood solely on the basis of the
21 evidence and upon my instructions.

22 Under your oath as jurors you are not
23 to allow any consideration of a sentence which might be
24 imposed upon a defendant, if convicted, to enter into
25 your deliberations or influence your verdict in any way.

1 Your duty is to decide the facts, to decide this case
2 solely and only on the evidence before you. In the event
3 of a conviction the duty of imposing sentence rests only
4 with the Court.
5

6 Each of you ladies and gentlemen is entitled
7 to his or her own opinion. Each should, however,
8 exchange views with your fellow jurors. That is what jury
9 deliberation means, to discuss and consider the evidence,
10 to listen to the arguments of your fellow jurors, to
11 present your individual views, to consult with one another
12 and to reach agreement based solely and wholly on the
13 evidence, if you can do so without violation to your
14 individual judgment.

15 Each must decide the case for himself or
16 herself, after consideration and discussion with his or her
17 fellow jurors. But you should not hesitate to change an
18 opinion, which, after discussion with your fellow jurors,
19 appears erroneous.

20 However, equally, if after careful consideration
21 of all the evidence the arguments of your fellow jurors,
22 you entertain a conscientious view which differs from the
23 others, you are not to yield your conviction simply because
24 you are outnumbered or outweighed. The final vote must
25 reflect your conscientious conviction as to how the issue

1 DSpa

2 should be decided.

3 If the government has failed to carry its
4 burden, you should acquit. That is your duty. If the
5 government has carried its burden, you must not flinch
6 from your sworn duty but you must convict.

7 Now, ladies and gentlemen, that concludes
8 my charge on the law.

9 Do you gentlemen have anything you wish to
10 bring to my attention?

11 MR. DEVORKIN: One matter, your Honor.

12 THE COURT: All right.

13 You stay in place. We'll retire to the
14 robing room.

15 (In the robing room.)

16 MR. DEVORKIN: I believe with respect to
17 the charge on the possession counts when you were
18 describing the indictment to the jury, you indicated
19 that the date reflected in each count was the date it was
20 stolen. In actuality the indictment charges, I think
21 they would have to find, is approximately to the date the
22 defendant had it in his possession.

23 THE COURT: I will correct that.

24 MR. SCHLESSER: Nothing, your Honor.

25 THE COURT: All right.

(In open court.)

THE COURT: Ladies and gentlemen, it has been pointed out to me that I made an error in the reference I made to the indictment. The date that is listed in the indictment I had erroneously said I believed to be the date charged when it was stolen. It's pointed out to me that is the date on which it's charged that the defendant had the particular matter in his possession. I wish to correct that reference.

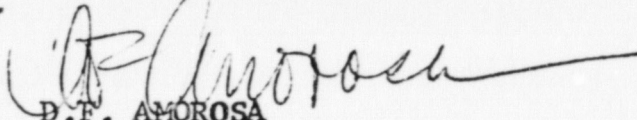
All right, you may retire and you may consider your verdict.

Before you do so, the two alternates, I must excuse you. I thank you for your careful attention to the evidence that I saw you giving as the trial went on. You are excused with the court's thanks.

THE CLERK: Will the marshal step forward and raise your right hand?

(Marshal sworn.)

Approved:


D.F. AMOROSA

Assistant United States Attorney

75-48
Before:

HONORABLE HAROLD J. RABY
United States Magistrate,
Southern District of New York.

- - - - -x
UNITED STATES OF AMERICA, :

-v- :

COMPLAINT

WILLIE LEE UNDERWOOD :

Violation of
18 U.S.C. § 495

Defendant .
- - - - -x

SOUTHERN DISTRICT OF NEW YORK, ss:

TERRY CHODOSH being duly sworn,
deposes and says that he is a Special Agent of the United
States Secret Service, Treasury Department, and charges
as follows:

On or about the 3rd day of April 1973
in the Southern District of New York,

WILLIE LEE UNDERWOOD

the defendant , unlawfully, wilfully and knowingly did
falsely make, alter, forge and counterfeit a certain order,
contract and writing, to wit, the endorsement of the payee
on a United States Treasurer's check

No. 39, 209, 500; Payable to Lillie Caldwell,
1274 5 Avenue, Apt. 4D, New York, N.Y.

for the purposes of obtaining and receiving from the
United States and their officers and agents a sum of
money, to wit, \$203.60

The bases for deponent's knowledge and for the
foregoing charge are, in part, as follows:

(1) Investigation of deponent in the course of
official duties;

(2) On January 21, 1974, Special Agent Allan D.
Kolwaite of the U.S. Secret Service took numerous handwriting
exemplars from the defendant;

(3) Agent Kalwaite transferred these exemplars
to deponent;

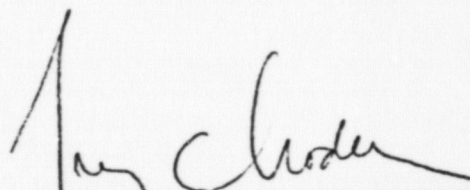
(4) Deponent took these exemplars, along with the original of the above-mentioned Government check, which bore an endorsement on the back thereof in the name of the payee, to Mr. Luciano V. Caputo, who is a Special Investigator with the New York Department of Investigations.

(5) Mr. Caputo has qualified as an expert witnesses in various courts of law regarding handwriting comparisons on over 100 occasions;

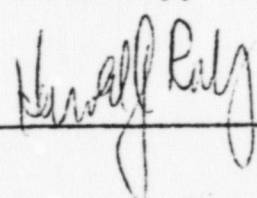
(6) After comparing the above-mentioned known handwriting of the defendant with the signature of the payee on the back of the above-mentioned check, Mr. Caputo advised deponent that he was positive the defendant had written the signature of the payee on back of the above-mentioned check.

Deponent has learned that true payee, Lillie Caldwell, never received above-mentioned check.

WHEREFORE, deponent prays that a warrant may issue for the apprehension of the above-named defendant and that he may be arrested and imprisoned, or bailed as the case may be.


TERRY CHODOSH

Sworn to before me this
22nd day of January, 1975.


Howard R. Kelly
United States Magistrate
Southern District of New York

MEMORANDUM

(DISPOSITION SHEET)

A.U.S.A.

AMPROSA

TIME:

2:30 PM

DOCKET #

75-94

Defendant(s) warned of right to remain silent and that anything said can be used against him (her) (them) in the future.

The charge of violation of Title 18 U.S.C. 55 495 explained. Advised of right to counsel at all stages of proceedings and that if the defendant has no funds counsel will be assigned.

DEFENDANT'S NAME	PRIVATE COUNSEL	APPOINTED COUNSEL	COUNSEL AT I.P.	BAIL DISPOSITION
WILLIE LEE UNDERWOOD	NEWTON SCHLESER		Y	R.O.R.

PRELIMINARY EXAMINATION:

Feb. 11, 1975 @ 10:30

COMMENTS

DATED: NEW YORK, NEW YORK

1/22/75

Harold J. Raby
 UNITED STATES MAGISTRATE
 SOUTHERN DISTRICT OF NEW YORK

USA-33s-187
Rev. 2/4/66

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

WILLIE UNDERWOOD

TO: RAYMOND F. BURGHARDT, Clerk
United States District Court
Southern District of New York

S I R :

You are hereby notified that I appear for

the defendant in the above-entitled action.

Dated: New York, New York

(PRINT) BOBICK, Deutch & Schlesser
Attorney for Defendant

(PRINT) 149 W. 72 St
NYC

873-7063

Telephone Numbers

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

-against-

WILLIE UNDERWOOD,

Defendant
-----X

~~74-1549~~
wrong #

State of New York)
County of New York) SS.:

EDWARD BOBICK, being duly sworn, deposes and says:

That I am an attorney, duly admitted to practice
in the courts of the State of New York, a partner in the law firm of
BOBICK, DEUTSCH & SCHLESSER, attorneys for the defendant in the within
matter, and make this affidavit to adjourn this matter for the following
reasons:

That I am the attorney who has been handling this
case and the only one fully familiar with all of the facts and circumstan-
ces in relation thereto.

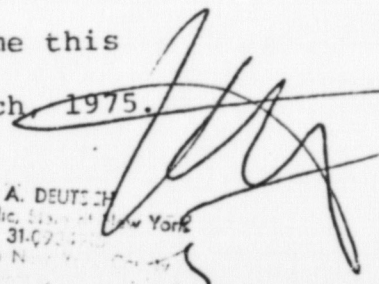
That I am actually engaged in the Supreme Court of the
State of New York, County of Kings, before Justice O'Mara, in the matter
of People v. Prince.

WHEREFORE, your deponent most respectfully requests
that the within matter be adjourned to a date convenient to the court.

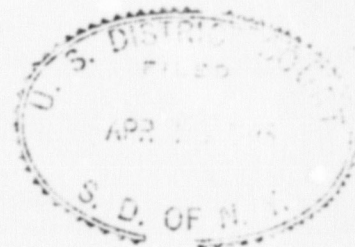
Edward Bobick
EDWARD BOBICK

Sworn to before me this

3rd day of March, 1975.


IRA A. DEUTSCH
Notary Public, State of New York
No. 31-02111
Qualified in New York City
Commission Expires 12/31/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
THE UNITED STATES OF AMERICA

-against-

WILLIE LEE UNDERWOOD,

Defendant.

Indictment No.
75 CR 396

-----X
S I R:

PLEASE TAKE NOTICE that upon the annexed affidavit of EDWARD BOBICK duly sworn to on the 22nd day of April, 1975, and upon all the proceedings had herein, a Motion will be made on behalf of the defendant, WILLIE LEE UNDERWOOD, in the United States District Court for the Southern District of New York, Room 506, located at the Federal Courthouse, Foley Square, New York, New York, on the 28th day of April, 1975 at 10:15 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order dismissing the indictment on the grounds that said indictment was obtained improperly and the defendant's rights were effectively deprived thereby, and for such other and further and different relief as to this Court may seem just and proper.

Dated: New York, New York
April 22, 1975

BOBICK, DEUTSCH & SCHLESSER
Attorneys for Defendant
Office and P.O. Address
149 West 72nd Street
New York, New York 10023

TO: HON. PAUL J. CURRAN
United States Attorney
Southern District of New York
Federal Courthouse
Foley Square
New York, N.Y.

A handwritten number "2" enclosed within a hand-drawn circle.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

-against-

WILLIE LEE UNDERWOOD,

Defendant.

-----X
State of New York)
County of New York) SS:

EDWARD BOBICK, being duly sworn, deposes and says:

That I am an attorney at law, duly admitted to practice in the United States District Court for the Southern District of New York, a partner in the law firm of BOBICK, DEUTSCH & SCHLESSER, and make this affidavit in support of a motion to dismiss the indictment on the grounds that said indictment was obtained by the United States Attorney by illegal and improper proceedings.

That the defendant was arrested on the complaint sworn to on the 22nd day of January, 1975. Thereafter the defendant was served with a subpoena to appear before the Grand Jury on the 16th day of April, 1975 at 12:15 P.M.

That this office contacted assistant United States Attorney Paul Vizcarrono, Jr. and informed Mr. Vizcarrono that the defendant had previously been arrested and we inquired whether the defendant was being requested to appear before the Grand Jury as a witness against someone else or in the matter where Mr. Underwood was the defendant. Mr. Vizcarrono informed your deponent that Mr. Underwood was the defendant and the target of the Grand Jury proceeding.

Your deponent informed Mr. Vizcarrono during

the aforesaid conversation that we would not permit Mr. Underwood to testify before the Grand Jury and further advised the Assistant United States Attorney that someone from this office would be present with Mr. Underwood on the return date of the subpoena to advise the defendant of his rights and as to what procedure to follow before the Grand Jury.

That although the Assistant United States Attorney was advised of the foregoing, and knowing that the defendant was represented by counsel who had advised Mr. Vaccarrono that an attorney would be present to advise Mr. Underwood of his rights, when Mr. Underwood appeared, pursuant to the aforesaid subpoena, the said Assistant United States Attorney took Mr. Underwood before the Grand Jury and proceeded to question him until such time as the attorney from this office appeared and commenced banging on the door of the Grand Jury room and caused such a commotion that the door was finally opened. The attorney from your deponent's office was then permitted to advise the defendant of his rights.

It is unknown to your deponent as to what questions were asked and what answers were given prior to the aforesaid interruption.

The Grand Jury which heard the testimony in this case certainly received information which it would not have received were it not for the improper actions of the Assistant United States Attorney in this matter.

The Assistant United States Attorney had been advised that the defendant was represented by counsel, that the defendant would be advised by said counsel not to testify before

Grand Jury, that counsel would be present with the defendant on the return date of the subpoena, yet he proceeded to take advantage of an uneducated, unknowledgeable individual unfamiliar with Grand Jury procedure. The Assistant United States Attorney's actions in this regard were inexcusable and effectively deprived the defendant of due process as guaranteed by the Constitution of the United States of America.

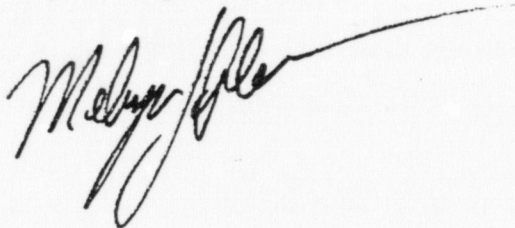
WHEREFORE, it is respectfully requested that the within motion to dismiss the indictment be granted in all respects.

Edward Bobick

EDWARD BOBICK

Sworn to before me this

22nd day of April, 1975





UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

WILLIE LEE UNDERWOOD,

Defendant

NOTICE OF MOTION

BOBICK, DEUTSCH & SCHLESSER

Attorneys for

defendant

149 WEST 72ND STREET
NEW YORK, N. Y. 10023
(212) 873-7063

To:

Attorney(s) for

MICROFILM

Service of a copy of the within

is hereby admitted.

MAY 23 1975

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a
NOTICE OF ENTRY entered in the office of the clerk of the within named court on

19

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF SETTLEMENT at one of the judges of the within named Court,
on 19, at M.

Dated:

MEMORANDUM

Attorneys for

Motion denied
no order

To:

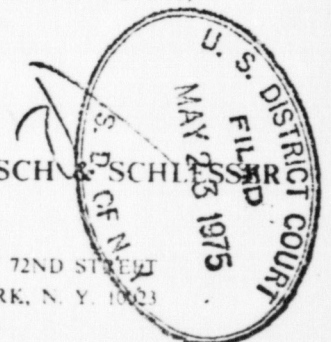
Roman [Signature]

Attorney(s) for

U.S.D.C. May 22 1975

BOBICK, DEUTSCH & SCHLESSER

149 WEST 72ND STREET
NEW YORK, N. Y. 10023



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----y
UNITED STATES OF AMERICA :

-v-

AFFIDAVIT

WILLIE LEE UNDERWOOD,

: 75 Cr. 396

Defendant. :

-----x

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

FILED
MAY 28 1975

R

PAUL VIZCAPRONDO, JR., being duly sworn,
deposes and says:

1. I am an Assistant United States Attorney
in the office of Paul J. Curran, United States Attorney
for the Southern District of New York, and as such have
been assigned responsibility for this matter.

2. This affidavit is submitted in opposition
to defendant's motion to dismiss the indictment on the
grounds that it was obtained improperly and in a manner
that effectively deprived the defendant of his rights.

3. On April 14, 1975, Willie Lee Underwood
was served with a subpoena to appear at 12:15 P.M. on
April 16, 1975 before a Federal Grand Jury sitting in
Room 1401 of the United States Courthouse in Manhattan,
in connection with alleged violations of Title 18, United
States Code, Sections 495 and 1708.

4. On April 15, 1975, at approximately 5:00 P.M.,

I received a telephone call from a man who identified himself as Edward Bobick and who stated that he was Willie Lee Underwood's attorney. Mr. Bobick asked why his client had been subpoenaed; I told him that his client was the target of an investigation and that he would be asked questions before the Grand Jury in connection with that investigation. Mr. Bobick stated that he would advise Mr. Underwood to assert his privilege against self-incrimination, and I stated that Mr. Underwood would nevertheless have to appear before the Grand Jury as directed by the subpoena. Mr. Bobick stated that he would see me the next day. I have no memory, nor do my notes of the conversation indicate, that Mr. Bobick asked me not to call Underwood before the Grand Jury until he or one of his associates was present.

5. On April 16, 1975, I left my office at approximately 12 noon and went to Room 1401 of the United States Courthouse, where the Grand Jury was sitting. At approximately 12:30 P.M. I walked from Room 1401 to the waiting room adjacent to it and asked if Willie Lee Underwood was present. Mr. Underwood identified himself and I asked him to come with me into the Grand Jury room. After Mr. Underwood was sworn by the foreman of the Grand Jury and before I asked him any questions, I advised him of the nature of the investigation; that he had a right to refuse to answer any question that might tend to incriminate him personally in any way; that anything he said before the Grand Jury could be used against him at another time in a Court of law; that he had a right to have an attorney of his

choice outside the Grand Jury room and to go outside and consult with that attorney before he answered any questions; that if he wished to have the assistance of an attorney but could not afford one, the court would appoint an attorney to represent him; and that if he deliberately told a lie to the Grand Jury he subjected himself to possible prosecution for the crime of perjury. Mr. Underwood indicated that he understood each of those instructions.

6. Approximately fifteen minutes after Underwood entered the Grand Jury room, there was a knock at the door. The foreman of the Grand Jury went to the door and returned and told me that it was Mr. Underwood's attorney, who later identified himself to me as Mr. Schlesser. I informed Mr. Underwood that his attorney was outside and that, as I had advised him earlier, he could consult with his attorney at any time that he wished. Mr. Underwood asked if he could at that time consult with his attorney; I said yes, and Mr. Underwood left the room. After approximately five minutes, Mr. Underwood reentered the room. At no time prior to this had Mr. Underwood asked to consult with an attorney, nor had Mr. Underwood advised me at any time that he was waiting for his attorney to arrive, and that he wanted to consult with his attorney before entering the Grand Jury room or answering any question.

7. When I returned to my office at approximately 1:30 P.M., I was given a message that Mr. Schlesser had called while I was out.

FV:ilf
75-0272

WHEREFORE, it is respectfully submitted that,
for the reasons stated above and in the Government's
accompanying memorandum of law, the defendant's motion
should be denied in all respects.

Paul Vizcarrondo, Jr.
PAUL VIZCARRONDO, JR.
Assistant United States Attorney

Sworn to before me this
15th day of May, 1975.

Jeannette Ann Grayeb

JEANNETTE ANN GRAYEB
Notary Public, State of New York
No. 24-1541575
Qualified in Kings County
Commission Expires March 30, 1977

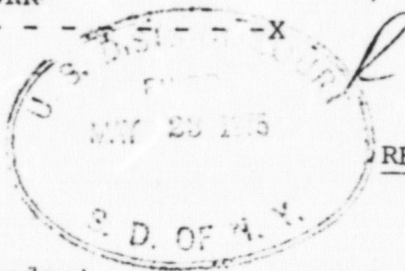
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

against

WILLIE LEE UNDERWOOD,

Defendant.



REPLY AFFIDAVIT

75 CR. 396

State of New York)
County of New York) SS.:

EDWARD BOBICK, being duly sworn, deposes and says:

That I am an attorney at law, duly admitted to practice in the United States District Court for the Southern District of New York, a partner in the law firm of BOBICK, DEUTSCH & SCHLESSER, attorneys for the defendant and make this affidavit in reply to the answering affidavit of Assistant United States Attorney Paul Vizcarrondo.

The Court is most respectfully referred to the last several sentences in paragraph 4 of Mr. Vizcarrondo's affidavit. Specifically, Mr. Vizcarrondo candidly admits that he spoke to your deponent the day before the defendant was called before the Grand Jury, and, although his memory seems to have lapsed as to whether or not your deponent requested that the defendant not be called before the Grand Jury until your deponent or one of his associates was present, it is clear that defense counsel stated that he would be present on the day the defendant was to appear before the Grand Jury. It is submitted that Mr. Vizcarrondo's position is patently absurd.

It is certainly obvious that the intention expressed by defense counsel to be present at the time the defendant was to be questioned by the Grand Jury was clear and explicit. Indeed, this is admitted in paragraph 4 of Mr. Vizcarrondo's affidavit. Nevertheless

the Assistant United States Attorney saw fit to put the defendant before the Grand Jury although counsel was not present. It is submitted that this was improper and an intrusion into the rights of the defendant to have counsel and most certainly a violation of defendant's privilege against self-incrimination.

The warning which the Assistant United States Attorney gave prior to the questioning was meaningless at this point since the defendant had not had the opportunity of consulting with counsel.

This is not a case where a witness is unaware as to whether or not he is the target of the investigation or where the United States Attorney's Office was unaware of a specific attorney representing a witness. In the case at bar the defendant had already been charged with a crime, was arrested and was on bail at the time the subpoena was served and the government was well aware that the defendant was represented by counsel. Under no circumstances should this defendant have been questioned in the absence of counsel.

The United States Attorney's scheduling of other matters for presentation to the Grand Jury cannot be used as a valid excuse to violate the defendant's constitutional right to counsel at all relevant stages of proceeding. Certainly the defendant's appearance before the Grand Jury, when he is the prospective target of that Grand Jury's investigation, is a relevant stage of the proceeding requiring the advice and representation of counsel.

WHEREFORE, it is most respectfully that the within motion be granted in all respects.

Edward Bobick

EDWARD BOBICK

Sworn to before me *this*
20 day of May, 1975

Index No.

Year 19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against-

75 CR 396

WILLIE LEE UNDERWOOD,

Defendant

REPLY AFFIDAVIT

BOBICK, DEUTSCH & SCHLESSER

Attorneys for

defendant

149 WEST 72ND STREET
NEW YORK, N. Y. 10023
(212) 873-7063

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

.....
Attorney(s) for

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a
NOTICE OF entered in the office of the clerk of the within named court on 19
ENTRY

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF one of the judges of the within named Court,
SETTLEMENT at
on 19 , at M.

Dated:

BOBICK, DEUTSCH & SCHLESSER

Attorneys for

149 WEST 72ND STREET
NEW YORK, N. Y. 10023

To:

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

520

3 - - - - -X
4 UNITED STATES OF AMERICA, :
5 :
6 vs. : 75 Cr. 396
7 :
8 WILLIE LEE UNDERWOOD, :
9 :
10 Defendant. :
11 - - - - -X

12 BEFORE: HON. RICHARD OWEN, D. J.

13 New York, New York
14 December 5, 1975
15 Room 1105 - 2 p. m.

16 APPEARANCES:

17 For the Government - Michael Devorkin, Esq.,
18 Assistant United States Attorney

19 For the Defendant - Steven Rochkind, Esq.,
20
21
22
23
24
25

2 (Case called.)

3 MR. ROCHKIND: If your Honor please, my name is
4 Steven Rochkind. I am appearing here for Mr. Melvin
5 Schlessner. His wife has been operated on this morning and
6 he could not be here and he asked me to step in for him.

7 THE COURT: Yes, go ahead.

8 MR. DEVORKIN: Your Honor, the government does
9 have a statement to make.

10 THE COURT: Go ahead.

11 MR. DEVORKIN: The government knows that the
12 court is fully familiar with the defendant's background and
13 conduct in this case and the government would only request
14 that if the court imposes sentence of incarceration on any
15 count that it strongly consider imposing an additional sentence
16 on another count or counts of probation with the condition
17 that that additional probation sentence required the defendant
18 to make some sort of substantial restitution to the victims
19 of this crime.

20 THE COURT: Mr. Devorkin, do you have any indica-
21 tion that that is a realistic position to take?

22 MR. DEVORKIN: I think it is, your Honor, for these
23 reasons: The government made --

24 THE COURT: We have a situation already where this
25 man has five children of his own.

1 jkcg

2 MR. DEVORKIN: I understand that, your Honor.
3 The only facts that the government made available to the
4 probation officer, which it also was prepared to prove at
5 trial, were that during the course of conduct by the
6 defendant he did maintain a substantial bank balance for one
7 year in that period; that there was generally \$2,000 moving
8 in and out of the account each month, which makes an inflow
9 of some \$25,000 over that one year and an outflow of the same
10 amount; that at some point in time the defendant owned two
11 cars; that the defendant and his wife both worked and appar-
12 ently do work, and that some sort of restitution, whether it
13 is a percentage of salary per week for number of months or
14 years would be possible for this defendant and would certainly
15 alleviate some of the substantial financial losses sufferent
16 by the merchants with whom he dealt.

17 THE COURT: Which is the 495 count, what counts?

18 MR. DEVORKIN: I don't have the redacted indictment
19 in front of me, but the 495 counts were the last 12 counts
20 in the redacted indictment, I believe. I think the first
21 22 were the 1708 counts, in the redacted indictment I am
22 speaking of.

23 THE COURT: Very good.

24 Yes, sir?

25 MR. ROCHKIND: Your Honor, if I may, I am sure your

Honor has a complete probation report, pre-sentence report.

Of course, your Honor presided at the trial in this matter and is fully aware of the accusations and what the defendant was found guilty of.

I would like to point out certain facts to the court. I personally know Mr. Underwood for a number of years. I have represented him on a number of civil matters.

As your Honor was aware, these charges arose out of Mr. Underwood's concern called Willie's Meat Market. The balance that was in the banks, the checks that were taken by Mr. Underwood, were used to pay off debts to suppliers; that Mr. Underwood's sole attempt in this was to keep his business going and to try to attempt to make a living for his family.

I am not condoning it at all. I never would stand here and try to condone such acts, but I would like to point out that there was no great personal gain that was made from this.

Mr. Underwood is married. His wife is here. He has seven children. He is now working again as a butcher for Southland Meat Market. This is his livelihood. This is all he has known. His life style, as far as I have known it, regarding even the fees that he had paid us, has been very, very low.

He is attempting to make a living for his family and that is all he has attempted to do. He is not riding around in big cars, taking fancy vacations and having big accounts somewhere.

I ask your Honor that in view of these circumstances to be as lenient as possible in sentencing Mr. Underwood.

THE COURT: Mr. Underwood, have you got anything you would like to say at this time?

THE DEFENDANT: No, your Honor.

THE COURT: Well, the jury here had before it some 30 odd counts, am I right, Mr. Devorkin?

MR. DEVORKIN: 34, your Honor.

THE COURT: 34 counts, and over a period of two, maybe three years they found you were a fence for checks that were stolen from peoples' mailboxes all up and down the harlem and east side area. While these checks were negotiated by various vendors, they were used by you as money. It wasn't a question of keeping the meat market going. That's the way you ran the business, and I was interested by the fact that even after the postal inspectors asked you whether you were doing this, in an interview in 1974, I think it was, early '74, you continued to do it.

And we heard testimony of a fellow who came all

1 jkcg

525

2 the way from Staten Island, a \$900 check, allegedly, a police
3 officer; the check had been stolen from his safe in State
4 Island or his file box in Staten Island and was negotiated
5 with you up in Harlem. The fellow came in all the time and
6 he came up there because, you claimed he liked to buy your
7 meat, and the fact of the matter was the man took the stand
8 and testified to a similar act and said it had been stolen
9 from his file box. He was a city police officer.

10 I find that there has been a long history here of
11 fencing stolen checks of all kinds and totalling over the
12 period some \$4,000, \$5,000.

13 I am going to sentence you to three years on
14 counts 1, 9-10, 13-16, 20, 22, 25, 27-8, 30 and 40, and
15 each of those counts to run concurrently.

16 On counts 43 to 53 I will sentence you to six
17 years and suspend the sentence and place you on probation
18 for six years and provide as a special condition of probation
19 that you make restitution to the appropriate city agencies
20 or federal agencies or state agencies that were required to
21 make good on these checks to their recipients, all of whom
22 we heard testify here did not get their checks and had them
23 made good by various government agencies.

24 And that is the sentence of the court.

2

25 MR. DEVORKIN: Your Honor, could I just inform

1 the court that I believe the victims are the merchants and
2 not the city and the state, at least with respect to most
3 of these checks. The federal government does not suffer
4 loss.
5

6 THE COURT: Well, to the extent that the merchants
7 have been injured here the restitution shall go to them and
8 this restitution shall be supervised by the probation depart-
9 ment of this court.

10 All right

11 Yes, sir?

12 MR. ROCHKIND: Your Honor, with regard to the
13 sentence, I ask that your Honor continue Mr. Underwood on
14 bail pending appeal.

15 THE COURT: Now, Mr. Devorkin, what say you to that?
16 I am not inclined to do it.

17 MR. DEVORKIN: The government would ask that the
18 defendant be remanded.

19 THE COURT: Yes, unless you can give me a good
20 reason not to remand him, I am going to remand him.

21 MR. ROCHKIND: Just, your Honor, that he has
22 posted a large sum of money now presently, that this sum of
23 money has been scraped together from various sources. He
24 is, in fact, with his family, he is still living with them.
25 He is not going anywhere. This money means too much to them,

and I think he means too much to his family.

THE COURT: I know, but that is not the test. The test is what grounds for appeal do you have; what error was allegedly committed that you think has an arguable chance in the Second Circuit?

MR. ROCHKIND: Your Honor, I was not the attorney who tried this case, so I am not familiar with the record, but based upon the sentence and my conversations with Mr. Schlessner, he believes that there is a basis for appeal and asked me to make an application that he be released pending appeal.

THE COURT: Well, I don't agree with that. I am going to remand him.

Defendant is remanded.

Is there a marshal here?

I am required to notify you pursuant to law that you have a right to appeal, that a notice of appeal must be filed within ten days, and if Mr. Underwood is unable to afford counsel one will be appointed for him by the court for that purpose.

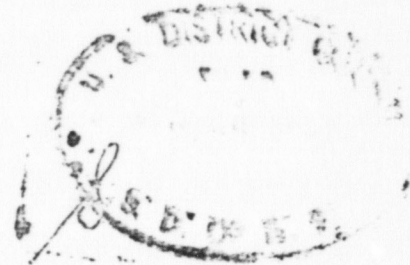
MR. ROCHKIND: An application to be relieved has to be made to the circuit court, am I correct?

THE COURT: It does.

MR. DEVORKIN: Thank you.

- - -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
THE UNITED STATES OF AMERICA,

against

WILLIE LEE UNDERWOOD,

Defendant.
-----X

NOTICE OF MOTION

75 CR. 396 Owen

PLEASE TAKE NOTICE that upon the annexed affidavit of MELVYN SCHLESSER, sworn to on the 12 day of March, 1976, and upon all the pleadings and proceedings heretofore had herein a Motion will be made before the Hon. Richard Owen, at Federal Courthouse Foley Square, New York, N.Y. for an order pursuant to Rule 35 reducing the sentence imposed upon the said defendant and for such other and further relief as to this Court may seem just and proper.

DATED: New York, N.Y.

BOEICK, DEUTSCH & SCHLESSER
Attorneys for Defendant
149 West 72nd Street
New York, N.Y.

by: 

MELVYN SCHLESSER

TO:

ROBERT B. FISK, JR.
U.S. Attorney
One St. Andrews Place
New York, N.Y.

I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THE UNITED STATES OF AMERICA,

against

WILLIE LEE UNDERWOOD,

Defendant.

-----X
STATE OF NEW YORK)
COUNTY OF NEW YORK) ss:

MELVYN SCHLESSER, being duly sworn, deposes and says:

That I am an attorney at law duly admitted to practice in the United States District Court for the Southern District of New York, a member of BOBICK, DEUTSCH & SCHLESSER, attorneys for the defendant.

That I make this affidavit in support of a motion reducing the sentence of the above named defendant, WILLIE LEE UNDERWOOD.

That the defendant was indicted and charged with violations of Title 18 U.S.C. §1708 and Title 18 U.S.C. §495.

Thereafter the defendant was found guilty after a trial by Jury on October 23, 1975. On December 5, 1975 the defendant was sentenced by the Hon. Richard Owen.

That the defendant is married and the father of seven children. The defendant till the time of sentencing was gainfully employed and lived with his wife and seven children for more than ten years the the same address. It must be pointed out that after the verdict and until sentencing the defendant

was employed as a butcher at the Southland Market at 145th Street and Eighth Avenue in New York City.

Although the defendant has had prior conflicts with the law, upon information and belief, these matters were all dismissed except for a violation of the State Vehicle and Traffic Law for which the defendant paid a fine.

Your deponent respectfully submits that although the defendant was convicted of the indictment, the defendant's sole motive was to pay off suppliers and creditors of his store. His sole purpose was to try and keep the business continuing so that he could support his family. It is further submitted that the defendant did not use the checks to sustain an outlandish life style or even support personal preferences or desires. Based on the foregoing, it is respectfully requested that the defendant's sentence be reduced pursuant to Rule 35.


WHEREFORE, it is respectfully requested that the within motion be granted in all respects.

Sworn to before me this

12 day of March, 1976.

St. H. Nacht

STEVEN H. SCHLESER
Notary Public, State of New York
No. 21000003
Qualified in Kings County
Commission Expires March 30, 1977


MELVYN SCHLESSER

Index No.

Year 19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA,

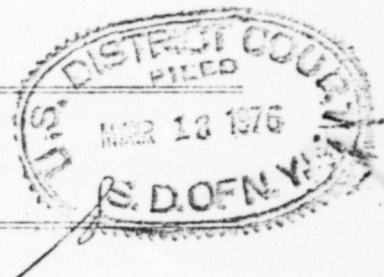
against

WILLIE LEE UNDERWOOD,

Defendant.

MEMORANDUM

The motion is denied
3/17/96
USAT



NOTICE OF MOTION

BOBICK, DEUTSCH & SCHLESSER
Defendant

Attorneys for

149 WEST 72ND STREET
NEW YORK, N. Y. 10023
(212) 873-7063

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

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Attorney(s) for

PLEASE TAKE NOTICE

Clerks Applicable Box

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at
on

19

, at

M.

Dated:

BOBICK, DEUTSCH & SCHLESSER

Attorneys for

149 WEST 72ND STREET
NEW YORK, N. Y. 10023

To:

CERTIFICATE OF SERVICE

May 3, , 1976

I certify that a copy of this brief and appendix has been mailed to the United States Attorney for the Southern District of New York.

Donald P. Gottlieb